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Measures to eliminate international terrorism

Measures to eliminate international terrorism

Report of the Working Group

Chairman: Mr. Rohan **Perera** (Sri Lanka)

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I. Introduction

1. The General Assembly, in its resolution 56/88 of 12 December 2001, decided that the Ad Hoc Committee established by resolution 51/210 of 17 December 1996 should meet from 28 January to 1 February 2002 to continue the elaboration of a draft comprehensive convention on international terrorism, with appropriate time allocated to the continued consideration of outstanding issues relating to the elaboration of a draft international convention for the suppression of acts of nuclear terrorism, and that it should keep on its agenda the question of convening a high-level conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations. The Assembly also decided that the work should continue, if necessary, during the fifty-seventh session of the General Assembly, within the framework of a working group of the Sixth Committee. In turn, the Ad Hoc Committee, at its 26th meeting, on 1 February 2002, decided to recommend that the Sixth Committee, at the fifty-seventh session of the General Assembly, should consider establishing such a working group.[1]

2. Accordingly, the Sixth Committee, at its 11th meeting, on 7 October 2002, established a Working Group and elected Mr. Rohan Perera (Sri Lanka) as its Chairman. At the same meeting, the Committee decided to open the Working Group to all States Members of the United Nations or members of the specialized agencies or of the International Atomic Energy Agency.

3. The Working Group held two meetings, on 15 and 16 October 2002.

4. The Working Group had before it the report of the Ad Hoc Committee on the work of its sixth session[2] containing, inter alia, a discussion paper prepared by the Bureau of the Ad Hoc Committee on the preamble and article 1 of the draft comprehensive convention;[3] a list of proposals made during the informal consultations on the preamble and article 1 appended to the report of the Coordinator on the results of the informal consultations in the Ad Hoc Committee;[4] the informal texts of articles 2 and 2 bis, prepared by the Coordinator;[5] the texts of articles 3 to 17 bis and 20 to 27 prepared by the Friends of the Chairman;[6] as well as two texts of article 18, one circulated by the Coordinator for discussion and the other proposed by the Member States of the Organization of the Islamic Conference.[7] The Working Group also had before it the report of the Working Group of the Sixth Committee issued at the fifty-third session of the General Assembly,[8] containing a revised text of the draft international convention for the suppression of acts of nuclear terrorism prepared by the Friends of the Chairman.[9]

5. Annex I.A to the present report contains a list of written amendments and proposals submitted at the sixth session of the Ad Hoc Committee in connection with the elaboration of a draft comprehensive convention on international terrorism. Annex I.B contains a list of written amendments and proposals submitted by delegations to the Working Group of the Sixth Committee at the fifty-sixth session of the General Assembly in connection with the elaboration of a draft comprehensive convention on international terrorism. Annex I.C contains a list of written proposals submitted by delegations to the Working Group of the Sixth Committee at the fifty-sixth session of the General Assembly in connection with the elaboration of a draft international convention for the suppression of acts of nuclear terrorism.

6. The Working Group considered its report and adopted it at its 2nd meeting, on 16 October.

II. Proceedings of the Working Group

7. At its 1st meeting, on 15 October, the Working Group decided to proceed with discussions in informal consultations. Mr. Richard Rowe of Australia acted as Coordinator of the informal consultations. They were held in two stages: the first focused on the draft comprehensive convention, and the second on the outstanding issues pertaining to the draft international convention for suppression of acts of nuclear terrorism. At the 2nd meeting, on 16 October, the Coordinator presented an oral report on the results of informal consultations on both draft conventions. The Coordinator's report, which is intended for reference purposes only and not as a record of the discussions, is contained in annex II to the present report.

A. Elaboration of a comprehensive convention on international terrorism

8. The Working Group continued its work on the elaboration of a draft comprehensive convention on international terrorism. The texts of article 18,[10] and the preamble and article 1,[11] as well as the texts of articles 2 and 2 bis,[12] were reviewed in informal consultations.

9. At the 1st meeting of the Working Group, the Chairman urged delegations to exert all efforts to reach a consensus on the outstanding issues pertaining to the draft comprehensive convention on international terrorism. At the 2nd meeting of the Working Group, the Coordinator presented an oral report to the Working Group.

B. Elaboration of a draft international convention for the suppression of acts of nuclear terrorism

10. At the 1st meeting of the Working Group, the Chairman recalled that most of the text of the draft international convention for the suppression of acts of nuclear terrorism had substantially been completed, with the question of the scope of the convention remaining unresolved, and urged delegations, in a spirit of compromise, to seek a resolution of the outstanding matters pertaining to the instrument.

11. Discussions on the draft convention were held in informal consultations. At the 2nd meeting of the Working Group, the Coordinator presented an oral report to the Working Group.

C. Question of convening a high-level conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations

12. At the 1st meeting of the Working Group, the Chairman recalled that several speakers had referred to this matter during the debate on the item "Measures to

eliminate international terrorism" in the Sixth Committee and invited all interested delegations to approach him with any concrete proposals they might have on the issue.

III. Recommendations and conclusions

13. At its 2nd meeting, the Working Group decided to refer the consideration of the present report to the Sixth Committee. The Working Group also decided, bearing in mind resolution 56/88, to recommend to the Sixth Committee that work should continue with the aim of finalizing the text of a draft comprehensive convention on international terrorism and the text of a draft international convention for the suppression of acts of nuclear terrorism, building upon the work accomplished during the meetings of the Working Group.

Notes

[1] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 37* (A/57/37), para. 20.

[2] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 37* (A/57/37).

[3] Ibid., annex I.

[4] Ibid., annex VI, appendix.

[5] Ibid., annex II.

[6] Ibid., annex III.

[7] Ibid., annex IV.

[8] A/C.6/53/L.4.

[9] Ibid., annex I.

[10] See *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 37* (A/57/37), annex IV.

[11] Ibid., annex I.

[12] Ibid., annex II.

Annex I

A. List of written amendments and proposals submitted at the sixth session of the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 in connection with the elaboration of a draft comprehensive convention on international terrorism[a]

Country	*Symbol*	*Subject*
1. Bureau	A/57/37,[b] annex I	Discussion paper on the preamble and article 1
2. Coordinator	A/57/37, annex II	Informal texts of articles 2 and 2 bis
3. Friends of the Chairman	A/57/37, annex III	Texts of articles 3 to 17 bis and 20 to 27
4. Coordinator	A/57/37, annex IV	Text relating to article 18
5. Member States of the Organization of the Islamic Conference	A/57/37, annex IV	Text relating to article 18

[a] It is understood that further consideration will be given to these written amendments and proposals, together with all other written and oral proposals, in future discussions, including on outstanding issues.

[b] Report of the Ad Hoc Committee to the General Assembly at its fifty-seventh session; full reference: *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 37* (A/57/37).

B. List of written amendments and proposals submitted by delegations to the Working Group of the Sixth Committee at the fifty-sixth session of the General Assembly in connection with the elaboration of a draft comprehensive convention on international terrorism[a]

Country	*Symbol*	*Subject*
1. Guatemala	A/C.6/56/WG.1/CRP.1 and Corr.1	Revised version of document A/C.6/56/L.2; additional article (provisionally numbered 22A)
2. Hungary	A/C.6/56/WG.1/CRP.2	Article 2
3. Friends of the Chairman	A/C.6/56/WG.1/CRP.3	Revised texts of articles 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 17 bis, 20 and 22
4. Colombia	A/C.6/56/WG.1/CRP.4	New first preambular paragraph
5.	A/C.6/56/WG.1/CRP.5 and Add.1-5	Draft report of the Working Group
6. Holy See	A/C.6/56/WG.1/CRP.6	Article 10, para. 4 bis
7. Holy See	A/C.6/56/WG.1/CRP.8[b]	Article 12

[a] It is understood that further consideration will be given to these written amendments and proposals, together with all other written and oral proposals, in future discussions, including on outstanding issues.

[b] Document A/C.6/56/WG.1/CRP.7 was withdrawn.

C. List of written amendments and proposals submitted by delegations to the Working Group of the Sixth Committee at the fifty-sixth session of the General Assembly in connection with the elaboration of a draft international convention for the suppression of acts of nuclear terrorism[a]

Country	*Symbol*	*Subject*
Mexico	A/C.6/56/WG.1/CRP.9	Article 4

[a] It is understood that further consideration will be given to these written amendments and proposals, together with all other written and oral proposals, in future discussions, including on outstanding issues.

Annex II

Report of the Coordinator on the results of the informal consultations

1. I wish to report to the Committee, in my capacity as Coordinator, on the informal consultations that I chaired on 15 and 16 October 2002, concerning article 18, the preamble, articles 1, 2 and 2 bis of the draft comprehensive convention on international terrorism, and concerning the draft international convention for the suppression of acts of nuclear terrorism.

2. The aim of the consultations was to review the situation in relation to outstanding issues and to ascertain if there was a possibility of resolving differences. As Coordinator, I emphasized the importance of not reopening the texts on which there was already a large measure of agreement. I also noted that, as was clearly indicated in the relevant documents, the texts which had been developed in October 2001 and in January and February 2002 represented the stage reached in our work and that further consideration would be given to them. The importance of a "package approach" to resolving the outstanding issues was also recognized.

A. Draft comprehensive convention on international terrorism

Article 18

3. In relation to this key article, which deals with the savings clause and exclusions from the scope of the convention, delegations had before them two texts of a draft article for consideration, one which I had prepared as Coordinator at the end of the October 2001 session of the Working Group of the Sixth Committee and another proposed by the member States of the Organization of the Islamic Conference. As at the informal consultations held within the framework of the Ad Hoc Committee in January and February 2002, the key issues on which discussion focused are reflected in paragraphs 2 and 3 of the drafts, namely: (a) in paragraph 2, whether to refer to the activities of "armed forces" or of "the Parties" during an armed conflict, and whether to insert the words "including in situations of foreign occupation" in that paragraph; and (b) in paragraph 3, whether to refer to excluding the activities undertaken by the military forces of a State in the exercise of their official duties by using the words "inasmuch as they are governed by other rules of international law" or the words "in conformity with international law".

4. Views were expressed by delegations in support of the various formulations, but there was no consensus on what the texts should be. Accordingly, it will be necessary to continue consultations on those two paragraphs. I suggest that we continue to use as the basis for our future work the two texts that we had before us during the current informal consultations.

Preamble

5. The focus of discussion on the preamble was primarily on the proposals appended to my report on the informal consultations held in January and February 2002 (A/57/37, annex VI, appendix). Different views were expressed in relation to the specific proposals. Several delegations considered that the text of the preamble as contained in the draft convention presented by India would be adequate and

should be adopted. Other delegations indicated that they wished to keep all the proposals contained in the appendix open for discussion.

Article 1

6. Two specific proposals were discussed: (a) to add a reference in paragraph 4 to the environment and endangering of natural resources; and (b) to insert the words "whose existence is legal or legitimate" after the words "facility or conveyance"[a] in paragraph 1. Different views were expressed on these proposals.

Article 2

7. In view of the extensive consideration that had already been given at earlier stages of our work, which had resulted in the elaboration of a draft article, there was no substantive discussion on the text during the current informal consultations. At the same time it was recognized that the text for the draft article might be subject to further consideration at a later stage. Some delegations noted that the acceptability of the text for this article would depend on the final wording agreed for article 18.

Article 2 bis

8. Several delegations indicated that they wished to discuss the proposed text for this article as contained in annex II of document A/57/37. I noted that this text, produced following intensive consultations at the October session of the Working Group, seemed to enjoy wide support at that time. In the discussions of the text during the current informal consultations, delegations indicated that they attached importance to having a clear and unambiguous expression of the relationship between the comprehensive convention and the sectoral conventions included in the text of the comprehensive convention. While some delegations indicated that their preference was not to have any article on the relationship, they also indicated they would be prepared to consider an appropriate formulation. Several delegations also noted that the acceptability of the text for this article would depend on the final wording agreed for article 18. The discussion of article 2 bis was particularly constructive and I share the view expressed by a number of delegations that we should be able to arrive at a mutually acceptable formulation.

B. Draft international convention for the suppression of acts of nuclear terrorism

9. The reference document for the informal consultations on the draft convention was the revised text proposed by the Friends of the Chairman in October 1998,[b] which was based on a draft text presented by the Russian Federation. I recalled that at the October session of the Working Group of the Sixth Committee there had been a comprehensive exchange of views on the principal outstanding issues relating to the scope of application of the convention [draft article 4], and that the positions of delegations on those issues were well known. I also noted that at the informal consultations in January and February 2002 there had been consideration of the proposal put forward by Mexico relating to the scope article, to the effect that: "This

[a] A/AC.252/2002/CRP.1/Add.1.

[b] See A/C.6/53/L.4.

convention does not address, nor can it be interpreted as addressing, in any way, the issue of the legality of the use or threat of use of nuclear weapons by States". I also noted that a proposal had been made in relation to the dumping of radioactive waste material. These represented the outstanding matters that needed to be discussed and resolved.

10. Some delegations said that they could support the text of draft article 4 as contained in the draft convention. Other delegations said that they could not accept the reference in paragraph 2 of that draft article to "the activities undertaken by military forces of a State in the exercise of their official duties". While some delegations expressed strong support for the proposal put forward by Mexico, other delegations said that they could not support the inclusion of that proposal in the draft convention. Several delegations emphasized that this convention was primarily intended to assist law enforcement authorities in combating terrorism and was not an arms control instrument. There was no substantive discussion on the proposal relating to the dumping of radioactive waste material.

11. The importance of finalizing this convention was noted by several delegations. Some delegations noted that reaching agreement on article 18 of the draft comprehensive convention would be conducive to finalizing the convention for the suppression of acts of nuclear terrorism.

C. Conclusion

12. I wish to thank all delegations for their cooperation and for participating so constructively in discussion of the issues addressed in the informal consultations. We have increased our understanding of the position of delegations on outstanding issues and confirmed where we need to focus our efforts. The key issue in relation to the comprehensive convention which has to be resolved continues to be the text of article 18. If we can reach agreement on this article, I believe that we should be able to find solutions for the other pending articles. Agreement of this article should also facilitate finalization of the convention for the suppression of acts of nuclear terrorism.